



Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604-660-7000
Fax: 604-660-7033
www.alc.gov.bc.ca

March 7, 2006

Reply to the attention of Brandy Ridout
ALC File #V-36273

Desert Hills Developments Inc.
Suite BC, 435 North Road
Coquitlam, BC V3K 3V9

Dear Sir:

Re: Application for Transportation Uses in the Agriculture Land Reserve

Please find attached the Minutes of Resolution #53/2006 outlining the Commission's decision as it relates to the above noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

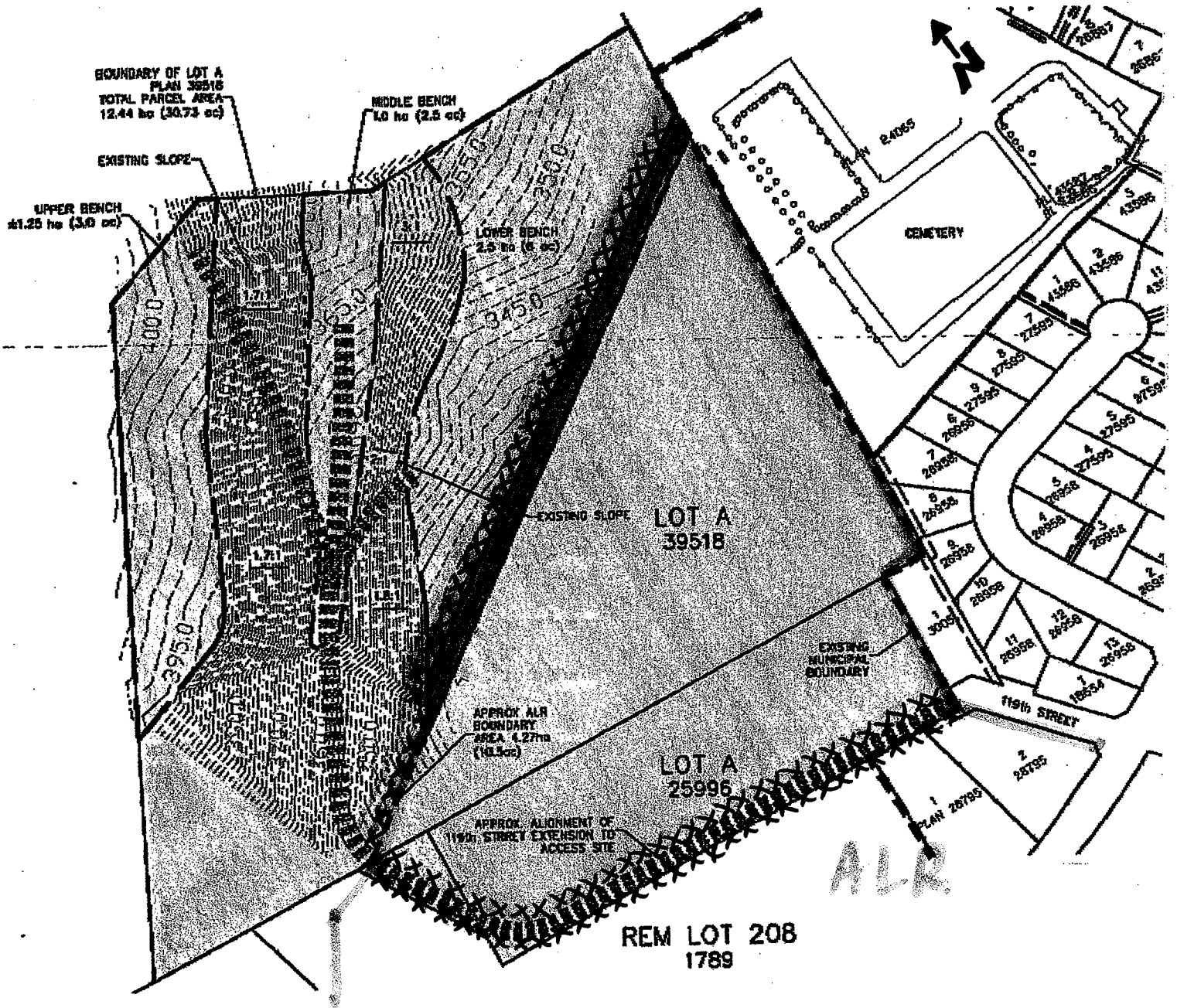
Per:

Erik Karlsen, Chair






cc: Regional District of Okanagan-Similkameen

BR/lv/36273d1

Enclosure: Minutes
Sketch Plan



Provincial Agricultural Land Commission
 Application #V-36273
 Resolution #53/2006

-  Subject properties
-  Approximately 0.3 ha area approved for road access through the ALR
-  Location of fencing
-  Location of 6-metre wide vegetative buffer
-  Approximately 0.3 ha area to be included in the ALR

MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on March 2, 2006 at the Ministry of Agriculture and Lands office located at 4607 - 23rd Street, Vernon, BC.

PRESENT:	Sue Irvine	Chair, Okanagan Panel
	Sharon McCoubrey	Commissioner
	Sid Sidhu	Commissioner
	Brandy Ridout	Staff
	Martin Collins	Staff

For Consideration

Application # V-36273
Applicant Sukhdarshan Singh Dhaliwal (since the application was submitted, Desert Hills Developments Inc. has purchased both properties)
Proposal To widen an existing easement from 6 to 18 metres as an extension of 119th Street in order to service and develop non-ALR lands both on and to the north of the subject properties. The widened easement would run west 220 metres and then northwest 90 metres for an approximate area of 0.3 ha.
Legal 1. PID: 010-707-379
Lot A, Section 7, Township 50, Similkameen Division Yale District, Plan 39518 2. PID:005-280-061
Lot A, District Lot 2450S, Section 7, Township 50, Similkameen Division Yale District, Plan 25996
Location 35045 and 35061 119th Street, Oliver

Site Inspection

A site inspection was conducted on December 6, 2005. Those in attendance were:

- Commissioners: Sue Irvine and Sharon McCoubrey
- Staff: Brandy Ridout and Martin Collins
- Agent: Brent Chysyk, Al Kelly, and Eric Friesen

Mr. Chysyk confirmed that he received the staff report dated November 22, 2005 and did not identify any errors (all corrections suggested by the applicant were made to the staff report before the site visit).

Although Commissioner Sidhu was not present at the site visit with the applicants, the Commission revisited the site January 17, 2006 to allow him to familiarise himself with the property.

Context

The proposal was weighed against the purposes of the Commission as stipulated in section 6 of the *Agricultural Land Commission Act*. They are:

1. to preserve agricultural land
2. to encourage farming on agricultural land in collaboration with other communities of interest, and

3. to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

Discussion

During its discussion, the Commission considered the consolidation and potential irrigation benefits offered by the applicants and determined both to be benefits to agriculture. The Commission also noted that similar requests on the subject properties had been reviewed and approved in the past.

The Commission discussed the agricultural capability of the two properties, noting that the 2.4 ha parcel and the ALR portion of the 12.4 ha parcel both have a Class 3 rating (prime). In addition, a portion of the non-ALR component of the 12.4 ha property has a Class 3 rating and is currently in orchard.

The Commission also assessed the impact of the proposal against the long-term goal of preserving agricultural land. In this assessment, the Commission considered the impact on the subject properties and the surrounding area. With regard to the impact of the proposal on the subject properties, the Commission noted that as the residential development was to be located outside the ALR, only 0.3 ha of ALR land would be directly affected by the development. However, it noted that the 0.3 ha area is currently in agricultural production. As such, the Commission believed that the inclusion of an equal amount of land into the ALR would offset the negative impact of using 0.3 ha for an access road.

In addition, although the current application is only for an access road through the ALR, the Commission was concerned about the potential urban/rural conflict caused by residential development adjacent to the orchard. This could include complaints about machinery and bird scare noise, spraying of pesticides, and trespass by residents. In order to mitigate the effects of developing the non-ALR portion of the properties for residential purposes, the Commission would require fencing of the access road and fencing and buffering of the development. In addition, notification on the title of each new lot that the property is in a farming area could limit conflict between agricultural operations and adjacent housing.

With regard to the potential impact of the proposal on the surrounding area, the Commission noted that the portion of the property being proposed for development is outside the ALR.

Community Comments

Although the properties currently lie within the Regional District of Okanagan Similkameen, information was provided as to the possibility of the land being included into the Town of Oliver. As such, the Commission received comments from both the Electoral Area and Oliver.

In a letter dated December 5, 2005, outgoing Electoral Area 'C' director Joe Cardoso suggested that the extension of 119th Street was premature. He counselled that a decision be delayed until the newly elected Area Director, Allan Patton, had appointed a new Advisory Planning Committee. The Commissioners met with Allan Patton and members of the Electoral Area 'C' Advisory Planning Committee on Tuesday January 17, 2006. At the meeting, the Committee members expressed concerns about the potential impacts of the proposed development on the ALR. The Committee requested that the decision be delayed until further planning and consultation had been undertaken between the Town and the Regional District.

At the Commission's request, written comments were subsequently received from Allan Patton and Ron Hovanes, Mayor, Town of Oliver. Mr. Patton requested that the Commission's decision be delayed until planning was complete. Mr. Hovanes requested that the Commission approve the application so as to allow the process to continue.

The Commission believed that as the application before it was an access road to allow for the development of non-ALR land, it should deal with the application as presented. It understood the complexities of the planning process but did not see the benefit of prolonging a decision on the road access application. In general, the Commission believes that development in non-ALR areas (i.e. hillsides) is beneficial in that pressure is removed from ALR areas for such uses. The Commission believed that the conditions put onto its approval would limit the potential negative impacts of the proposal on agriculture.

Conclusions

1. Consolidation of the two properties and the possibility of an upgrade in the reclaimed water system were viewed by the Commission to be benefits to agriculture.
2. The 2.4 ha parcel, the ALR portion of the 12.4 ha parcel, and a portion of the non-ALR component of the 12.4 ha property have a Class 3 rating.
3. The Commission believed that the inclusion of 0.3 ha of non-ALR orchard into the ALR would offset the use of 0.3 ha as an access road.
4. The Commission believed that fencing and buffering the access road and development area would mitigate the potential impacts on adjacent agricultural land.

IT WAS

MOVED BY: Commissioner S. McCoubrey

SECONDED BY: Commissioner S. Irvine

THAT the application to widen the existing 6-metre wide access to 18 meters to extend 119th Street be approved

AND THAT the approval is subject to the following conditions:

- The consolidation of the two subject properties, as proposed by the applicant.
- The inclusion of a 0.3 ha linear section of non-ALR orchard into the ALR.
- The construction of a fence along the access road and the construction of a fence and planting of a 6 metre vegetative buffer along the new ALR boundary. The purpose of this condition is to limit the impact of the road and residential lots on the adjacent agricultural operations. A fencing and buffering plan should be submitted to the Commission for approval.

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AND THAT the approval is granted to the applicant only and is valid for three (3) years from the date of this decision.

This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

**CARRIED
RESOLUTION #53/2006**



Staff Report
Application # V – 36273-0
Applicant: Sukhdarshan Singh Dhaliwal
Agent: Desert Hills Developments Inc.
Location: Oliver

DATE RECEIVED: September 21, 2005

DATE PREPARED: November 22, 2005

TO: Chair and Commissioners – Okanagan Panel

FROM: Brandy Ridout, Regional Research Officer

PROPOSAL: To widen an existing easement from 6 to 18 metres as an extension of 119th Street in order to service and develop non-ALR lands both on and to the north of the subject properties. The widened easement would run west 220 metres and then northwest 90 metres for an approximate area of 0.3 ha.

This application is made pursuant to Section 6 of BC Regulation 171/2002 (*Agricultural Land Reserve Use, Subdivision and Procedure Regulation*).

BACKGROUND INFORMATION:

The easement is currently unpaved and is used to provide access to Lot A, Plan 39518.

It is the intention of the developer to consolidate the two subject properties, thereby creating a single farm unit. There is a possibility of an upgrade in the reclaimed water system, which this development may accelerate. As well, pumps will be upgraded, which may improve the current irrigation systems.

Local Government:

Regional District of Okanagan Similkameen (possible future inclusion in the Town of Oliver)

Legal Description of Properties:

1. PID: 010-707-379
Lot A, Section 7, Township 50, Similkameen Division Yale District, Plan 39518
2. PID:005-280-061
Lot A, District Lot 2450S, Section 7, Township 50, Similkameen Division Yale District, Plan 25996

Purchase Date:

Lot A, Plan 39518 – agreement for sale to Desert Hills Developments Inc., possession to take place January 29, 2006

Lot A, Plan 25996 – purchased by Desert Hills Developments Inc. October 28, 2005

BACKGROUND INFORMATION (continued):

Location of Properties:

35045 and 35061 119th Street, Oliver

Size of Properties:

Total 14.8 ha (12.4 ha and 2.4 ha) of which approximately 6.9 ha is in the ALR

Present use of the Properties:

ALR portion in orchard, part of non-ALR portion in orchard, one house per parcel

Surrounding Land Uses:

WEST: non-ALR, hillside
SOUTH: ALR, orchards
EAST: non-ALR, single-family home subdivision
NORTH: non-ALR, hillside

Agricultural Capability:

Data Source: Agricultural Capability Map # 82E.013
The majority of the property is identified as having Prime Dominant ratings.

Official Community Plan/ Zoning Bylaw and Designation:

Information not provided

PREVIOUS APPLICATIONS:

Application #01259-0

Applicant: J.H. Argue
Decision Date: February 13, 1975
Proposal: To subdivide 0.1 ha from the subject property and consolidate it with southwest ¼, Section 7, Plan B1600 except Plan 3005.
Decision: Allowed - subject to consolidation.

Application #05334-0

Applicant: A. Klettke
Decision Date: November 4, 1977
Proposal: To consolidate that portion of the 11.7 ha property currently in the ALR with the 2 ha parcel to the south to have the operating orchard as one unit and to construct an access road to the dwelling.
Decision: Allowed (Note: decision never pursued)

Application #19045-0

Applicant: J.A. & H.R. Andre
Decision Date: October 17, 1985
Proposal: To consolidate the two subject properties (2.4 ha and 12.3 ha) and then to re-subdivide into three lots of approximately 5 ha each.
Decision: Refused (Resolution #521/1985), but would allow subdivision along the ALR boundary. Reconsidered and allowed the subdivision of the properties into two lots so that each lot contains about 6 ha of orchard (Note: decision never pursued).

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Town of Oliver: No comment received.

The applicant has contacted the Town of Oliver regarding the proposed development in the context of bringing the two properties into the municipal boundaries. If the boundary is extended, the access road would be a municipal road. Council agreed to consider the proposal, subject to the preparation of a report on the feasibility and economic viability of construction and ongoing maintenance of municipal infrastructure for the proposed development. Although this report has been completed, a decision has not yet been forwarded to the Commission.

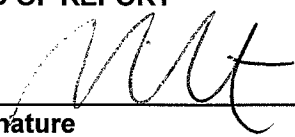
STAFF COMMENTS:

Staff suggests the Commission consider the following:

- As part of the non-ALR portion of Lot A, Plan 39518 has been developed for agriculture, staff suggests the Commission explore with the applicant the possibility of including some of the and into the ALR.
- The property to the south of the proposed road is in the ALR and is an orchard. As such, if approval is considered, buffering requirements should also be considered. The neighbour is aware of the proposal as she was given a copy of the application by the applicant.

END OF REPORT

Signature



Date

Dec 5, 05